

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2013040952

v.

SANTA CRUZ CITY SCHOOL DISTRICT,

SANTA CRUZ CITY SCHOOL DISTRICT,

OAH CASE NO. 2013080941

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING MOTION TO
CONSOLIDATE

On April 22, 2013, Deborah B. Bloom, educational advocate for Parent and Student (Student), filed with the Office of Administrative Hearings (OAH) a Request for Due Process Hearing in OAH case number 2013040952 (First Case), naming the Santa Cruz City School District (District). On August 29, 2013, Student's educational advocate withdrew from the case, and on August 30, 2013, Student filed a motion to continue so that he could obtain legal representation. On September 4, 2013, the District filed a non-opposition to the continuance request and indicated that it was available for hearing in November of 2013. On September 6, 2013, OAH granted the continuance and set the hearing to begin November 12, 2013, with a prehearing conference (PHC) for November 1, 2013.

On August 27, 2013, Laurie E. Reynolds, Attorney at Law, filed on behalf of the District a Request for Due Process Hearing in OAH case number 2013080941 (Second Case), naming Student. The Second Case is set for hearing on September 24, 2013, with a PHC on September 16, 2013.

On September 4, 2013, the District filed a Motion to Consolidate the First Case with the Second Case. OAH has not received a response from Student.

APPLICABLE LAW

Although no statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases, OAH will generally consolidate matters that involve: a common question of law and/or fact; the same parties; and when

consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

DISCUSSION

Here, the First Case and Second Case involve common questions of fact and overlapping legal issues. Student identifies six issues in his complaint as to whether the District denied him a free appropriate public education (FAPE) for the 2011-2012 and 2012-2013 school years, due to: 1) the District's failure to provide a timely independent educational evaluation (IEE) and failure to timely incorporate the IEE results into Student's educational program; 2) failure to provide staff information on Student's educational needs based upon assessment results; 3) failure to provide effective intervention services; 4) failure to ensure Student's progress on his goals and to properly assess his progress; 5) failure to implement Student's individualized educational program (IEP); and 6) failing to provide counseling services with qualified personnel. Student seeks, among other resolutions, that the District place Student at Chartwell High School and fund transportation, that the District provide compensatory educational services in the form of an educational fund and reimbursement for educational therapy services. The District identifies one issue in its complaint, namely, whether its May 2013 IEP constitutes FAPE. Given the overlapping issues regarding Student's progress on goals, the results of assessments, the provision of services, and what Student currently requires in terms of educational programming and placement, consolidation is warranted.

In addition, consolidation furthers the interests of judicial economy because both cases involve the same parties and many of the same witnesses would be required to testify in each proceeding. Each matter will also involve the introduction of the same or similar documents including relevant assessment reports and IEP's. Accordingly, consolidation is granted.

When consolidating cases, OAH designates the statutory timelines applicable to the consolidated matters to be controlled by one of the cases. Here, the statutory timelines shall be controlled by the First Case.

ORDER

1. The District's Motion to Consolidate is granted.
2. All dates previously set in OAH Case Number 2013080941, the Second Case, are vacated.

3. The consolidated cases shall now be heard on the dates currently set for the First Case.¹ Namely, the PHC for the consolidated cases shall be held on November 1, 2013, at 1:00 p.m., and the due process hearing shall begin on November 12, 2013, at 1:30 p.m., and continuing day-to-day, Monday through Thursday, as needed and at the discretion of the Administrative Law Judge.
4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the complaint in OAH Case Number 2013040952, the First Case.

Dated: September 10, 2013

/s/

THERESA RAVANDI
Administrative Law Judge
Office of Administrative Hearings

¹ The parties are free to contact OAH to request a mediation date.